



Contribution of the European Centre for Law and Justice (ECLJ)
to the
PACE Committee on Social Affairs, Health and Sustainable Development

Motion for a recommendation no. 15269
& Motion for a resolution no. 15383

Priscille Kulczyk
Research Fellow

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The European Centre for Law and Justice (ECLJ) has been working for several years on the issue of pornography.¹ With these observations, it wishes to contribute to the important and necessary work of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly of the Council of Europe (PACE) on the motion for a recommendation “*Preventing addictive behaviours in children*” (no. 15269 – 19 April 2021) and the motion for a resolution “*Right of the child to protection while using internet*” (no. 15383 – 29 September 2021).

Pornography is a topic that must absolutely be addressed in each of these texts. In 2022, PACE declared itself “*alarmed by the unprecedented exposure of children to pornographic imagery, which is detrimental to their psychological and physical development.*”² Indeed, while pornography is harmful to all people, children are particularly vulnerable to it: they watch it massively (I) and suffer serious consequences (II). It is therefore necessary to encourage States to take measures to protect children from this scourge (III).

¹ ECLJ, Pornography and human rights, Report: <https://eclj.org/pornography-and-human-rights-report?lng=en> ; Third party intervention at the European Court of Human Rights in the case of Roman Chocholáč v. Slovakia (nr 81292/17): <https://eclj.org/free-speech/echr/roman-chocholac-v-slovakia-no-81292/17?lng=en>

² PACE, For an assessment of the means and provisions to combat children’s exposure to pornographic content, Resolution 2429 (2022), 25 April 2022, § 2.

I. The increasingly massive consumption of pornography by children

Figures do not lie: children are increasingly exposed to pornography. According to a 2017 French study, “63% of boys and 37% of girls aged 15 to 17 have already surfed at least once a website to watch pornographic films.”³ This proportion is growing since in 2013, this same figure was 53% among boys (+10 points in four years).⁴ A recent U.S. survey found that 73% of 13- to 17-year-olds have been exposed to online pornography.⁵ The lowering of the age of first viewing of pornography is also worrying:⁶ in 2016, for example, nearly 49% of American male students reported having discovered pornography before the age of 13.⁷ In Poland, a recent report revealed that currently, the average first viewing of pornography occurs just before the age of 11.⁸ This same figure is 12 years in the U.S.⁹ Frequency of viewing is also of concern. In 2016, 64% of Americans aged 13-24 actively watched porn weekly or more often;¹⁰ in 2022, 59% of youth aged 13 to 17 who intentionally view pornography do so weekly or more often.¹¹ In France in 2017, 36% of adolescent males who have ever surfed a porn website report doing so once a month or more and 4% every day or so.¹² Currently in Poland, nearly one in four 16-year-old (23.9%) who watch porn admits doing so daily; among the 12-14-year-olds, the figure is just over one in five (21.5%).¹³

How to explain such a massive consumption of pornography by young people? First, the advent of the digital era made pornography freely, anonymously, unlimitedly accessible everywhere and at any time, even at school.¹⁴ Indeed, it is now infiltrating schoolyards via smartphones, which are increasingly common among minors: in Poland, young people surveyed most often said that they had seen pornography for the first time on a phone/smartphone with Internet access (35.1%) and that this type of device was the main way they accessed this content for 76.2% of the 16-year-old and 66.9% of the 12-14-year-olds surveyed.¹⁵ The covid-19 pandemic has aggravated the phenomenon of exposure to

³ « Les adolescents et le porno : vers une «Génération Youporn» ? », IFOP study for Observatoire de la Parentalité et de l'Education Numérique, conducted from 21 to 27 February 2017 among 1005 people representative of the population aged 15 to 17 residing in metropolitan France, p. 9 : https://www.ifop.com/wp-content/uploads/2018/03/3698-1-study_file.pdf

⁴ *Ibid.*, p. 10.

⁵ Robb, M.B., & Mann, S., *Teens and pornography*. San Francisco, CA: Common Sense, 2023, p. 8: <https://www.common sense media.org/sites/default/files/research/report/2022-teens-and-pornography-final-web.pdf>

⁶ See Agnès Leclair, « Les enfants désormais exposés au porno dès l'école primaire », *Le Figaro*, 10 February 2020 : <https://www.lefigaro.fr/actualite-france/la-pornographie-gagne-les-ecoles-primaires-20200210>

⁷ Chyng Sun, Ana Bridges, Jennifer Johnson et Matt Ezzell, “Pornography and the Male Sexual Script: An Analysis of Consumption and Sexual Relations”, *Archives of Sexual Behavior* 45, no. 4 (May 2016): 983-94.

⁸ Dr Rafał Lange (red.), Mariola Błażej, Filip Konopczyński, dr Agnieszka Ładna, *Nastolatki wobec pornografii cyfrowej - Trajektorie użytkowania*, Thinkstat NASK - Ogólnopolska Sieć Edukacyjna, Warsaw 2022, p. 5.

⁹ Robb, M.B., & Mann, S., *Teens and pornography*, *op. cit.*, p. 8.

¹⁰ Barna Group, “The porn Phenomenon: The Impact of Pornography in the Digital Age” (2016).

¹¹ Robb, M.B., & Mann, S., *Teens and pornography*, *op. cit.*, p. 8.

¹² « Les adolescents et le porno : vers une «Génération Youporn» ? », IFOP study, *op. cit.*, p. 17.

¹³ Dr Rafał Lange, et al., *Nastolatki wobec pornografii cyfrowej*, *op. cit.*, p. 5.

¹⁴ Robb, M.B., & Mann, S., *Teens and pornography*, *op. cit.*, p. 15.

¹⁵ Dr Rafał Lange, et al., *Nastolatki wobec pornografii cyfrowej*, *op. cit.*, p. 5.

pornography through successive lockdowns¹⁶ which have led to an increase in screen time, not to mention the availability of more free content on platforms. Pornhub’s frequentation has thus jumped by 22% between March and April 2020.¹⁷ Supply and demand for child pornography also increased, as well as online exploitation.¹⁸ Finally, the increasing exposure of young people to pornography can be explained by the “*fierce marketing of the porn industry*” and “*various techniques [it] uses to attract unwilling Internet users*” (advertising clicks, home page hijacking, clandestine sites, social networks, illegal downloading and streaming sites).¹⁹ For this industry, young people are a manna in the order of 789 million dollars per year, including about 147 million dollars for accidental exposure alone, not to mention the fact that they are the customers of tomorrow.²⁰ Pornography also spreads insidiously: it is becoming commonplace among young people, in their culture and permeates them, as the European Parliament recognized in 2013.²¹

II. The harmful consequences of children’s use of pornography

The harmful consequences of early viewing of pornography have been widely reported in the context of the resolution “*For an assessment of the means and provisions to combat children’s exposure to pornographic content*”.²² Overall, PACE recognized that “*This exposure brings increased risks of harmful gender stereotyping, addiction to pornography, early and unhealthy sexual relationships, as well as difficulties with developing balanced, respectful relationships in future life*”, it “*results in the blurring of the boundaries of normal curiosity towards sexuality and those of socially acceptable behaviour, and it undermines*

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¹⁶ OSCE and UN Women, *Guidance. Addressing emerging human trafficking trends and consequences of the COVID-19 pandemic*, July 2020, p. 30.

¹⁷ Pornography is booming during the covid-19 lockdowns, *The Economist*, 10 May 2020: <https://www.economist.com/international/2020/05/10/pornography-is-booming-during-the-covid-19-lockdowns>

¹⁸ Solon, O., “Child sexual abuse images and online exploitation surge during pandemic”, *NBC News*, 23 April 2020: <https://www.nbcnews.com/tech/tech-news/child-sexual-abuse-images-online-exploitation-surge-during-pandemic-n1190506> ; European Commission, Joint Research Centre, Lobe, B., Velicu, A., Staksrud, E., et al., How children (10-18) experienced online risks during the COVID-19 lockdown : Spring 2020: key findings from surveying families in 11 European countries, Publications Office of the European Union, 2021, <https://data.europa.eu/doi/10.2760/562534> ; EUROPOL, “Exploiting Isolation: Offenders and victims of online child sexual abuse during the COVID-19 pandemic,” 19 June 2020: <https://www.europol.europa.eu/publications-documents/exploiting-isolation-offenders-and-victims-of-online-child-sexual-abuse-during-covid-19-pandemic> ; UNICEF, COVID-19 and its implications for protecting children online, April 2020: <https://www.unicef.org/sites/default/files/2020-04/COVID-19-and-Its-Implications-for-Protecting-Children-Online.pdf>

¹⁹ Ennoccence, *Réseaux sociaux, streaming, live streaming et téléchargement illégal : nouvelles portes d’entrée des enfants vers le monde de la pornographie, premier pas vers une sensibilisation de notre société sur ces sujets*, 2016, p. 21-25 (our translation): <https://ennoccence.org/wp-content/uploads/2016/11/rapport-ennoccence-VF.pdf>

²⁰ *Ibid.*, p. 13.

²¹ European Parliament resolution of 12 March 2013 on eliminating gender stereotypes in the EU (2012/2116(INI)), N: “*young women and men are most affected by pornography’s new cultural status; [...] the ‘mainstreaming of pornography’, i.e. the current cultural process whereby pornography is slipping into our everyday lives as an evermore universally accepted, often idealised, cultural element, manifests itself particularly clearly within youth culture: from teenage television and lifestyle magazines to music videos and commercials targeted at the young.*”

²² See the Report, Doc. 15494, 07 April 2022.

respect for human dignity, privacy and physical integrity”.²³ Emotional, psychological and physical consequences of early exposure to pornography are proven: we will recall certain points and insist in particular on the risk of addictive behaviours.

From a physiological point of view, pornography has a very important impact on young people because of their sensitivity to dopamine²⁴ and the characteristics of their brains, whose plasticity allows for huge advances in learning and thinking but also makes them more vulnerable to the development of mental disorders and dangerous behaviours.²⁵ Thus, pornography is detrimental to the normal processes and maturation of a child’s frontal cortex.²⁶ Research also shows that viewing pornography by young children “[can] induce mental and behavioral disturbances similar to those of sexual abuse.”²⁷

The use of pornography causes significant psychological damage to young people: “*Studies suggest that children who use pornography [...] have lower levels of social integration and higher levels of undesirable behaviour. There is also a higher incidence of depressive symptoms and reduced emotional bonding with caregivers.*”²⁸ “Perfect” bodies exposed in these contents are likely to generate complexes in adolescents.

Youth exposure to pornography also leads to the development of unrealistic and distorted expectations about sexuality and misleading attitudes about relationships, since a large number of adolescents watch pornography to find information on sexuality: a French study found that “73% of boys in middle school believe that X-rated movies have been part of sexual learning.”²⁹ Correlatively, the likelihood that adolescents will accept and engage in harmful and risky sexual behaviors for themselves and others, increases: early sexual activity,³⁰ sexting,³¹ multiple sexual partners, risky sexual practices, substance use, and vulnerability to STD.³²

²³ PACE, For an assessment of the means and provisions to combat children’s exposure to pornographic content, § 2-3.

²⁴ University of Pittsburg, “Teen Brains Over-Process Rewards, Suggesting Root of Risky Behavior, Mental Ills”, *Phys.org*, January 2011.

²⁵ Jay N. Giedd, “The Amazing Teen Brain”, *Scientific American*, June 2015, 32-37.

²⁶ E. Le Roux, “Pornography: Human Right or Human Rights Violation?”, *Open Journals Publishing* (2009).

²⁷ Collectif Interassociatif Enfance Médias (CIEM), *L’environnement médiatique des jeunes de 0 à 18 ans : Que transmettons-nous à nos enfants ?*, Report, May 2002, p. 39 : <https://cemea.asso.fr/IMG/rapportCIEM.pdf>

²⁸ Dr Rafał Lange, et al., *Nastolatki wobec pornografii cyfrowej*, *op. cit.*, p. 5 (our translation).

²⁹ « Les adolescents et le porno : vers une «Génération Youporn» ? », Etude IFOP, *op. cit.*, p. 30 (our translation).

³⁰ *Ibid.*, p. 11: “71% of teens who have ever had sex have surfed a pornographic site in their lifetime. As a reminder, the average for all teens is 51%” (our translation).

³¹ Lanzarote Committee, *Opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children*, 6 June 2019 : <https://rm.coe.int/opinion-of-the-lanzarote-committee-on-child-sexually-suggestive-or-exp/168094e72c> ; PACE, “Hearing examines disturbing phenomenon of self-generated sexual images and videos shared by children”, 12 November 2020 : <https://pace.coe.int/en/news/8092>

³² Elizabeth M. Morgan, “Associations between Young Adults’ Use of Sexually Explicit Materials and Their Sexual Preference, Behaviors, and Satisfaction”, *The Journal of Sex Research* 48, no. 6 (2011): 520-530.

A correlation between pornography and sexual violence between young people is recognized:³³ “the patients we meet frequently mention repeated contact or even massive use of pornography, as in the case of [X], 15 years old . . . , who has been indicted for sexual assaults on girls in his school and for the rape of two of his neighbors who are less than 10 years old.”³⁴ Overall, a 2015 meta-analysis of 22 studies from seven countries found that pornography consumption was significantly associated with an increase in verbal and physical aggression.³⁵

Finally, the risk of developing an addiction due to consumption of pornography is proven:³⁶ neurosciences now show that the brain’s reaction to pornography is similar to that caused by hard drugs, such as cocaine.³⁷ Indeed, when the brain is exposed to something rewarding, it reacts by increasing the release of dopamine, the “pleasure hormone”. Pornography activates the two reward system centres of the brain: the pleasure system and the desire system. Thus, the user can be caught in a circle of pleasure and dopamine release in response to new images, and then desire and craving for more.³⁸ Over time, dopamine receptors in the reward centre shrink due to chronic overstimulation.³⁹ With a blunted reward centre, the user does not feel the effects of dopamine as well and pornography stops producing the same excitement as before. As a result, many people seek out more violent and obscene pornographic content to get a higher dopamine release.⁴⁰ Pornography is thus very addictive and unlike other addictions, this one is difficult to stop because pornography is easily accessible, affordable,

³³ Dr Rafał Lange, et al., *Nastolatki wobec pornografii cyfrowej*, *op. cit.*, p. 5 ; Bonino S., Ciairano S., Rabaglietti E., Cattelino E., (2006), Use of pornography and self-reported engagement in sexual violence among adolescents, *European Journal of Developmental Psychology*, nr 3.

³⁴ Barbara Smaniotto, « Réflexions autour de l’impact de la pornographie... sur la sexualité adolescente », *Revue de l’enfance et de l’adolescence*, 2017/1 (n° 95), p. 47-56 (our translation). See also Center for Family and Human Rights, *Dismantling the Pornography Industry and Making the Internet Safe for Children*, 23 February 2022, <https://c-fam.org/event/dismantling-the-pornography-industry-and-making-the-internet-safe-for-children/> : In Kansas City, half of the perpetrators of sexual violence against girls under the age of 10 were boys between the ages of 11 and 15, and it is believed that exposure to pornography is the cause.

³⁵ Paul J. Wright, Robert S. Tokunaga, et Ashley Kraus, “A Meta-Analysis of Pornography Consumption and Actual Acts of Sexual Aggression in General Population Studies”, *Journal of Communication* 66, no. 1 (February 2016): 183-205.

³⁶ Cline, Victor B. and Wilcox, Brad (2002) “The Pornography Trap”, *Marriage and Families*: Vol. 9, Article 3, p. 11-13 ; Mateusz Gola, et al., “Can Pornography be Addictive? An fMRI Study of Men Seeking Treatment for Problematic Pornography Use”. *Neuropsychopharmacology* 42, no. 10 (2017): 2021-2031.

³⁷ Juristes pour l’enfance, « Association Déclic : entretien autour de la consommation de pornographie par les adultes », 15 February 2022 : <https://www.youtube.com/watch?v=fXbEkWqYleg> ; Elisabeth Pierson, « Le porno, c’est comme la coke » : trois jeunes racontent leur addiction, *Le Figaro*, 30 September 2022.

³⁸ Norman Doidge, *The Brain That Changes Itself* (2007).

³⁹ P. Kenny, G. Voren et P. Johnson. “Dopamine D2 Receptors and Striatopallidal Transmission in Addiction and Obesity”, *Current Opinion in Neurobiology* 23, no. 4 (2013): 535–538.

⁴⁰ D. H. Angres, K. Bettinardi-Angres, “The Disease of Addiction: Origins, Treatment, and Recovery”. *Disease-a-Month* 54 (2008): 696-721 ; Mateusz Gola, et al., “Can Pornography be Addictive? An fMRI Study of Men Seeking Treatment for Problematic Pornography Use”, *op. cit.*

and anonymous (the three “A”).⁴¹ Moreover, unlike the “*bottom of the bottle of alcohol or the last cigarette in the pack*”, the source of content to be viewed for free is inexhaustible.⁴²

In 2019, the World Health Organization recognized a new diagnosis in its International Classification of Diseases (ICD): compulsive sexual behaviour disorder (6C72).⁴³ Its description may well correspond to disorders related to the excessive use of pornography. Moreover, according to a study, “*over 80% of people seeking treatment for CSBD had a problem with pornography use, rather than issues from acting out with real sexual partners.*”⁴⁴ In its February 2022 version from its eleventh revision, ICD explicitly makes such a connection by stating as an additional clinical feature that “*Compulsive Sexual Behaviour Disorder may be expressed in a variety of behaviours, including sexual behaviour with others, masturbation, use of pornography, cybersex (internet sex), telephone sex, and other forms of repetitive sexual behaviour.*” Furthermore, the link between the development of the disease and early viewing of pornography is remarkable: “*Many individuals with Compulsive Sexual Behaviour Disorder report a history of sexually acting out during pre-adolescence or adolescence (i.e., risky sexual behaviour, masturbation to modulate negative affect, extensive use of pornography).*”

Would we let a child watch what happens in a brothel? Yet this is what pornography left online within the reach of youth amounts to. It is therefore necessary for States to take steps to protect children.

III. Recommendations - Faced with the scourge of pornography, protecting children while using internet and preventing addictive behaviours

Preventing exposure of children to pornography is an obligation of States under internationally recognized rights of the child, including the Declaration of Geneva (26 September 1924)⁴⁵ and the 1989 Convention on the Rights of the Child whose article 17.e. states that “*States Parties shall encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being [...].*”⁴⁶ Under European Union law, the Audiovisual Media Services Directive as revised in 2018 requires Member States to ensure that audiovisual media services “*which may impair*

⁴¹ For a description of the addiction process, see Cline, Victor B. and Wilcox, Brad (2002) “The Pornography Trap”, *Marriage and Families*: Vol. 9, Article 3, p. 11-13.

⁴² François Lévêque, « Pornographie en ligne : une consommation massive, un risque pour les jeunes et une urgence à réguler », *The Conversation*, 6 July 2021 (unofficial translation).

⁴³ International Classification of Diseases-11 for Mortality and Morbidity Statistics, 6C72 Compulsive sexual behaviour disorder, Version: 02/2022 : <https://icd.who.int/browse11/l-m/en#/http%3a%2f%2fid.who.int%2fcd%2fentfity%2f1630268048>

⁴⁴ Darryl Mead & Mary Sharpe, “Pornography and sexuality research papers at the 5th International Conference on Behavioral Addictions”, *Sexual Addiction & Compulsivity*, 2018, vol. 25, Issue 4, p. 248-268.

⁴⁵ Preamble: “[...] *men and women of all nations, recognizing that mankind owes to the Child the best that it has to give [...]*” ; and art. 1: “*The child must be given the means requisite for its normal development, both materially and spiritually.*”

⁴⁶ See also Preamble: “*the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.*”

the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. [...] The most harmful content, such as [...] pornography, shall be subject to the strictest measures” (new article 6a).

In general, the ECLJ welcomes the position taken by PACE on the scourge of pornography in resolution 2412 (2021) *Gender aspects and human rights implications of pornography* and particularly in resolution 2429 (2022) *For an assessment of the means and provisions to combat children’s exposure to pornographic content*. However, it wishes to provide clarification regarding some of the measures that States should be invited to take to protect children while using Internet and to prevent addictive behaviours: this involves implementing effective prevention and awareness-raising policies (A), and regulating pornographic supply and access to pornography (B).

A. Implementing effective prevention and awareness-raising policies

In particular, it is crucial to understand pornography as a public health issue (1) and to provide quality education on this issue (2).

1. Understanding pornography as a public health issue

- **Expressly recognizing the danger of pornography**

It may be appropriate to begin by expressly recognizing, through non-binding resolutions, the danger of pornography, at all levels and particularly to public health, as is done for smoking or alcoholism. In the United States, 17 states have done so on the basis of a project initiated by the National Center on Sexual Exploitation (NCOSE).⁴⁷ In Utah (UT SCR009 - March 2016), it is claimed that *“pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms”* and *“the need for education, prevention, research, and policy change at the community and societal level in order to address the pornography epidemic that is harming the people of our state and nation”*⁴⁸ is recognized. The ECLJ calls on PACE to invite States to take such a step.

- **Including consequences of pornography in national health programs**

As pornography consumption can endanger individual health, it is appropriate to integrate this element into national health programs. Poland developed various objectives related to pornography consumption by children and youth in a section about *“Prevention of psychological health problems and improvement of psychological well-being of society”* (VII) in its National Health Program for 2016-2020.⁴⁹

⁴⁷ National Decency Coalition, *Pornography: Public Health Crisis Resolution* : <https://nationaldecencycoalition.org/updates/>

⁴⁸ “These 16 U.S. States Passed Resolutions Recognizing Porn As A Public Health Issue”, *Fight the new drug*, 20 November 2020: <https://fightthenewdrug.org/here-are-the-states-that-have-passed-resolutions/>

⁴⁹ See Official Journal of the Republic of Poland, 1492, 16 September 2016, <https://dziennikustaw.gov.pl/D2016000149201.pdf> (our translation): *“Analysis of existing legal provisions for the protection of children and young people from easy access to sexualizing and pornographic content”* (2.8), *“Conduct research on the exposure of children and young people to pornographic and sexualizing material, as*

- **Developing effective treatment for addictive behaviours related to pornography consumption**

People developing addictive behaviours related to pornography consumption are not rare; many would like to free themselves from it but are unable to. In fact, this is rarely treated, unlike other types of addiction,⁵⁰ notably because of the taboo maintained on the dangers of pornography. In France, the *Décllic* association offers, among others, support for pornographic addiction and training for health professionals, under the auspices of a clinical psychologist who heads a hospital department specializing in sexual and pornographic addictions.⁵¹ In this context, the ECLJ calls on PACE not only to reiterate its invitation to States to “*promote and provide counselling and support services for compulsive users of pornography*”,⁵² but also to invite them to develop and make accessible therapies in this field, as for other types of addictions.

2. Providing quality education on the issue of pornography

- **Organizing public information and awareness campaigns**

To denounce the harmful effects of pornography, especially on children, to demystify the real business behind this industry, or in a positive way to promote a healthy representation of woman, it is appropriate to organize public information and awareness campaigns for the general public. In 2021, France set up a campaign in the form of a 30-second “shock” spot to denounce the exposure of minors to pornography.⁵³

- **Giving greater responsibility to parents on the issue of pornography**

In addition to the need to educate children and youth in the proper use of information and communication technologies (ICT),⁵⁴ it is essential to provide them with a healthy and quality education in emotional, relational and sexual matters that gives a positive vision of sexuality that is not limited to simple pleasure-seeking techniques.

well as on the effects of such contact on the psychosexual development and mental health of children and young people” (2. 9), “Develop the availability and dissemination of science-based prevention programs that address the risks associated with children and youth accessing pornographic, harmful, and sexualizing content” (2.10), “Training of various professional groups (including teachers, physicians, health inspectors, prosecutors, uniformed services, city guards) on the risks and developmental and health consequences of children and adolescents viewing pornography” (2.11).

⁵⁰ See Juristes pour l’enfance, « Association Décllic / Prévention, sensibilisation, accompagnement de l’addiction pornographique » with Maria Hernandez-Mora and Anne Sixtine Pérardel, 15 February 2022 : https://www.youtube.com/watch?v=IL2NK1z_Xqk

⁵¹ See <https://assodecllic.com/>

⁵² APCE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), 26 November 2021, 10.5.3.

⁵³ https://www.youtube.com/watch?v=8_TGmYvrls

⁵⁴ See the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, art. 6 ; the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, art. 17 ; PACE, Combating “child abuse images” through committed, transversal and internationally co-ordinated action, Resolution 1834 (2011), 8.3.2 ; PACE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), 10.2.3.

Parents have a fundamental role to play in sexuality education, especially concerning protection of children from exposure to pornography.⁵⁵ In Poland, a recent study indicated that 58.5% of the young people surveyed had not discussed about Internet pornography and its consequences with their parents,⁵⁶ maybe because few parents are truly aware of the extent of pornography consumption among young people. However, in this area, the principle is “first-come, first-served” because it is a question of getting ahead of the pornographic vision of sexuality thanks to a healthy, authentic and coherent discourse by parents, providing a positive vision of sexuality to which children can refer if they are ever confronted with something negative.⁵⁷

Thus, in addition to the education of the younger generation, broad information for parents, who are their children’s first educators, is essential and must be given particular attention. They are too often helpless when it comes to questions related to sexuality, even though their role is fundamental. The ECLJ calls on the PACE to reiterate⁵⁸ its invitation to States to strengthen parental responsibility in matters relating to pornography, both in terms of ICT use and sexuality education. Indeed, as necessary as it is, “[the fact that State addresses the problem of minors’ access to pornographic content has the perverse effect] of giving parents the feeling that the subject has already been dealt with and that they are not called upon to play their role as educators. It is therefore important to remind parents by all means that they are responsible for the devices they give to their children and the protective measures that must be taken. It is therefore essential to train parents in the use of parental control software and to make them aware of the dangers of unsupervised access to screens by the youngest.”⁵⁹

B. Regulating pornographic supply and access to pornography

1. Placing a warning message on pornographic materials

The ECLJ calls on PACE to reiterate⁶⁰ its invitation to States to require that pornographic materials contain a message warning, *inter alia*, of the health risks arising from the consumption of such materials, in particular the proven risk of addiction. Such an obligation should be imposed on websites and publishers of such material, in the same way as warning labels for alcohol, tobacco or online gambling. In the United States, Utah has passed the *Porn Warning Label Law* requiring, on pain of a fine, that a warning message appear for at least five seconds before any pornographic content is displayed or that a warning message appear

⁵⁵ On the role of parents, see Les associations familiales catholiques, *12 questions à se poser pour protéger ses enfants de la pornographie*, Téqui, August 2022.

⁵⁶ Dr Rafał Lange, et al., *Nastolatki wobec pornografii cyfrowej*, *op. cit.*, p. 6.

⁵⁷ Anne-Sixtine Pérardel in Juristes pour l’enfance, « Association Déclic - Pornographie : influence positive d’un discours parental authentique », 15 February 2022 : https://www.youtube.com/watch?v=wdPuRQ_FJgQ

⁵⁸ PACE, Fighting the over-sexualisation of children, Resolution 2119 (2016), 21 June 2016, 4.3 ; PACE, Gender aspects and human rights implications of pornography, Resolution 2412 (2021), 10.2.5.

⁵⁹ Christophe Tardieu and Philippe Schil, *Prévention de l’exposition des mineurs aux contenus pornographiques sur internet*, Inspection Générale des Finances et Conseil Général de l’Economie, de l’Energie et des Technologies, December 2019, p. 33 (our translation).

⁶⁰ PACE, For an assessment of the means and provisions to combat children’s exposure to pornographic content, 6.3 and 6.9 ; PACE, Gender aspects and human rights implications of pornography, 10.2.4.

before accessing a pornographic site and that the site make a reasonable effort to verify the age of users.⁶¹

2. Imposing the default activation of a parental control or filtering software

The ECLJ calls on PACE to clarify its position on the use of parental controls or filtering software⁶² by inviting Member States to ensure, on the one hand, that such a tool is installed and activated by default on devices connected to the Internet as soon as they leave the factory,⁶³ and, on the other hand, that such a tool is in any case installed and activated by default in schools, libraries⁶⁴ and public places in general.

3. Regulating moderation and notification policies

It is essential to impose obligations on online services providers in the field of moderation and notification, which can help eradicate some of the harmful content that would otherwise be accessible to minors. This is of particular importance for platforms that are not “pornographic” *per se* but on which such content can be found, including social networks. A policy to purge the digital environment of harmful content requires, among others, a combination of proactive moderation by Internet actors (both through effective detection tools and by trained individuals) and the possibility of reporting such content, after which effective action must be taken.

In this context, it is worth noting that the new “*Digital Services Act*”⁶⁵, adopted in October 2022 adopted by the European Union, could help to step up the fight against the exposure of minors to pornography, in particular by making the very large online platforms (such as Google, Facebook...) more accountable. For example, online platforms will have to put in place mechanisms enabling users to easily report illegal content and they will have to process notices quickly. They will have to cooperate with trusted flaggers whose notices will be given priority. Very large online platforms have additional obligations to manage the systemic risks associated with the services they provide, including regarding the rights of the child.

⁶¹ See for example Craig R. Chlarson, “Utah Passes Porn Warning Label Law”: <https://wasatchdefenselawyers.com/utah-passes-porn-warning-label-law/#:~:text=Utah%27s%20porn%20warning%20label%20bill,warning%20labels%20on%20internet%20porn>.

⁶² The following resolutions appear to diverge in the terms “installation” by default and “activation” by default: PACE, Gender aspects and human rights implications of pornography, resolution 2412 (2021), 10.4.5 and 10.4.6 ; PACE, For an assessment of the means and provisions to combat children’s exposure to pornographic content, resolution 2429 (2022), 6.2.

⁶³ In the United States, several States have implemented such a device on phones: for example Alabama, South Carolina, Idaho, Tennessee, Utah in 2021.

⁶⁴ As required by some 15 US States: Arizona, Arkansas, Colorado, Georgia, Idaho, Kentucky, Kansas, Minnesota, Missouri, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Virginia : <http://nationaldecencycoalition.org/schools-libraries-filtering/>

⁶⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R2065&from=EN>

The ECLJ thus calls on PACE to invite States to introduce moderation and reporting obligations for online services providers,⁶⁶ as well as to effectively enforce regulations governing digital services.

4. Require pornographic sites to verify the age of their users

The ECLJ calls on PACE to reiterate⁶⁷ its invitation to States to consider requiring pornographic websites to verify the age of their users, a measure also promoted by the European Union.⁶⁸ Although it still gives rise in practice to technical, economic and legal difficulties,⁶⁹ such as the choice of the technical device, protection of the Internet users' personal data, possibilities of circumvention, the scale of regulation, States should be encouraged to persevere in order to find a satisfactory solution to prevent minors from accessing these sites as much as possible.

5. Criminalizing pornography

A consensus can be reached on criminalizing “violent” and “extreme” pornography: PACE has called on Member States to do so.⁷⁰ It should be noted, however, that most pornographic content depict humiliating treatment and physical aggression against one of the sexual “partners”, including criminal behaviours such as rape, incest and child abuse,⁷¹ not to mention the widespread racist component.⁷² from this point of view, the vast majority of pornographic content is therefore concerned by potential criminalization.⁷³

On the other hand, criminalizing all forms of pornography is an obviously controversial measure, which in any case has the advantage of considering pornography as intrinsically evil and contrary to human dignity: this is the parameter that should be taken into account as a

⁶⁶ See PACE, For an assessment of the means and provisions to combat children's exposure to pornographic content, 6.7.

⁶⁷ APCE, Gender aspects and human rights implications of pornography, 10.4.9 ; PACE, For an assessment of the means and provisions to combat children's exposure to pornographic content, 6.4-6.4.10.

⁶⁸ Audiovisual Media Services Directive revised in 2018, art. 28 ter. ; The new European strategy for a better internet for kids (BIK+).

⁶⁹ See the examples of the United Kingdom, France (difficulties in enforcing the age verification requirement stemming from a 2020 law aimed at protecting victims of domestic violence that inserted a final paragraph in Art. 227-24 of the Penal Code), Poland (draft law on the protection of minors against pornographic content presented by the *Twoja Sprawa* Association in December 2019 and which appears to have been abandoned).

⁷⁰ PACE, Violent and extreme pornography, Resolution 1835 (2011) ; PACE, Gender aspects and human rights implications of pornography (2021).

⁷¹ See « Aux Etats-Unis, 34 femmes portent plainte contre Pornhub pour des vidéos d'abus sexuels », *Le Monde*, 18 juin 2021 : https://www.lemonde.fr/international/article/2021/06/18/aux-etats-unis-34-femmes-portent-plainte-contre-pornhub-pour-des-videos-d-abus-sexuels_6084635_3210.html ; Sylvain Allemand, « Viol, inceste, haine raciale... Les descriptions et titres des vidéos pornographiques sont-ils illégaux ? », *Le Figaro*, 06 October 2022 : <https://www.lefigaro.fr/actualite-france/viol-inceste-haine-raciale-des-associations-s-attaquent-aux-descriptions-des-sites-pornographiques-20221006>

⁷² See Alice Mayall et Diana E. H. Russell, “Racism in Pornography”, *Feminism & Psychology*, June 1, 1993, Volume: 3 issue: 2, page(s): 275-281.

⁷³ Let us recall that in the 50 most popular porn videos, 88% of the scenes contain physical violence and 49% contain at least one verbal aggression: Ana J. Bridges, Robert Wosnitzer, Erica Scharrer, Chyng Sun, Rachael Liberman, “Aggression and Sexual Behavior in Best-Selling Pornography Videos: A Content Analysis Update”, *Violence against Women* 16, no. 10 (2010): 1065-1085.

priority. This is also in line with Sustainable Development Goal 5 on Gender Equality, in particular Goal 5.2 “*Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.*” In this context, the ECLJ points out that several dozen States, including members of the Council of Europe, are parties to the *International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications*, adopted within the United Nations in 1923.⁷⁴ Through this treaty, they have committed themselves to prosecute and punish pornographic traffic, in very broad terms, both as regards the types of content and the acts related to it (production, possession, circulation etc.). The question that arises is that of its relevance in the Internet age; but given its very broad scope, this text does not seem anachronistic. The ECLJ therefore calls on PACE to invite Member States that are parties to this international convention to respect the obligations arising from it.

⁷⁴ See the website of the Swiss Ministry of Foreign Affairs: <https://www.fedlex.admin.ch/eli/treaty/1923/0023/fr>